

### REMARKS

Claims 1-41 and 49-51 are pending, and stand subject to Restriction by the Examiner. No amendments to the claims are requested in the present Response.

#### *Response to Restriction Requirement*

In response to the Restriction Requirement mailed March 12, 2008, Applicants elect to prosecute, with traverse, the claims of group II, *i.e.*, Claims 1-12 and 49-51, drawn to methods for modulating endothelial cell activity *in vivo*. Applicants maintain that the Restriction is improper for the reasons set forth in Applicants' Response to Restriction Requirement submitted February 25, 2008.

Applicants elect, for the purposes of prosecution only, to prosecute, with traverse, the following species: (J) intercellular permeability; (L) non-protein molecule; (M) regulation of transcription; and (iv) small molecule antagonists. Election of each species is made with the understanding that such an election is for the purpose of examination only, in accordance with current linking claim practice. Pursuant to M.P.E.P. §809.02(a), Applicants maintain that upon a finding that the generic claim is allowable, Applicants will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of the generic claims. Claims 1-5, 7, 9, 11, 13, 15-19, 23, 25, and 49-51 read on the elected subject matter. For the reasons set forth below, Applicants maintain that the species election requirement is improper.

For the claims in Group II, the Examiner has required the election of (M) Regulation of Transcription, or (N) Regulation of Translation. As discussed during the two telephonic interviews, and as indicated in Applicants' Response to Restriction Requirement submitted February 25, 2008, this species election requirement is improperly limiting. In particular, the species identified by the Examiner do not encompass all of the elected species of small molecule antagonists, for example, which act directly on the functionality or activity of the PKC $\zeta$  expression product. Specifically, small molecule antagonists, which Applicants have elected, do not affect transcription or translation of PKC $\zeta$ . Accordingly, the Examiner's requirement to elect modulation of transcription or translation is not relevant for Applicants' elected species. Accordingly, Applicants respectfully request withdrawal of the species election.

**Application No.:** 10/526,812  
**Filing Date:** August 19, 2005

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

**CONCLUSION**

The undersigned has made a good faith effort to respond to the Restriction Requirement. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is invited to call the undersigned attorney to resolve such issues promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Sept. 11, 2005

By: Kathleen R. Mekjian  
Kathleen R. Mekjian  
Registration No. 61,399  
Attorney of Record  
Customer No. 20,995  
(619) 235-8550